

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOVAN CAMPBELL,
Plaintiff,
-against-
ISOLATOR FITNESS, INC.,
Defendant.

23-CV-2286 (JGLC)

ORDER OF DISMISSAL

JESSICA G. L. CLARKE, United States District Judge:

Plaintiff filed this action on March 17, 2023. ECF No. 1. Defendant was served with process on April 25, 2023, *see* ECF No. 8, but never answered the Complaint or otherwise appeared in this action. On August 21, 2023, Plaintiff moved for default judgment. ECF No. 17. The Court referred the case to Magistrate Judge Moses for a Report and Recommendation on Plaintiff's motion for default judgment. ECF No. 20. On October 3, 2023, Judge Moses denied Plaintiff's motion, based on Plaintiff's "disregard for both the applicable procedural rules and three of this Court's prior orders," without prejudice for Plaintiff to renew her motion no later than November 3, 2023. ECF No. 24. Plaintiff did not renew her motion or otherwise take any action in response to that order. On November 7, 2023, Judge Moses ordered Plaintiff to show cause in writing, no later than November 14, 2023, as to why this action should not be dismissed for failure to comply with court orders and/or for failure to prosecute. ECF No. 25. To date, Plaintiff has not taken responded to the order to show cause or otherwise indicated that she intends to pursue this action.

Rule 41(b) of the Federal Rules of Civil Procedure provides that a district court may dismiss an action if "the plaintiff fails to prosecute or otherwise comply with [the] rules or a court order." Fed. R. Civ. P. 41(b); *see also Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir.

2014). Under Rule 41(b), a district court may dismiss an action *sua sponte* for failure to prosecute after notifying the plaintiff. *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Because the Court has not received any response from Plaintiff, including any indication that he intends to pursue this case, the instant action is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b).

The Clerk of Court is directed to terminate all pending motions and close the case.

Dated: January 9, 2024
New York, New York

SO ORDERED.



JESSICA G. L. CLARKE
United States District Judge